

Notice of Allowability

Application No.

10/027,467

Examiner

GHASSEM ALIE

Applicant(s)

SCHMIDT ET AL.

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 02/12/08.
2. ☒ The allowed claim(s) is/are 14, 19-22 and 35-39.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the claims:

Claims 1-13 and 23-34 are cancelled.

Reasons for Allowance

2. The following is an examiner's statement of reasons for allowance:
in view of the decision by the Board of Patent Appeals and Interference mailed on 12/13/07, claims 14, 19-22 and 35-39 are allowed. See page 12, lines 5-24; and page 13, lines 1-2 of the Decision On Appeal.

In other words, the claims are allowable because prior art fails to teach that the sheet is in contact with the nip rolls and the sheet moves at a first speed and is broken by a stress applied to the sheet by the rotation of the nip rolls at a second speed greater than the first speed in combination with remaining limitations set forth in claim 14. The prior art also fails to teach that the sheet is in contact with the nip rolls and wherein the sheet moves at a first speed and is broken by a stress applied to the sheet by the combination of the movement of the transfer blade from the retracted position to the extended position and the rotation of the nip rolls at a second speed greater than the first speed in combination with the remaining limitations set forth in claim 35.

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Regarding claims 14 and 35, Sankaran et al. (5,383,622), hereinafter Sankaran, teaches a transfer blade having a retracted position and an extended position; and a roll wherein a sheet of material passing between the retracted position and the extended position is diverted away from a processing apparatus by the roll; and the movement of the transfer blade from the retracted position to the extended position directs the sheet toward a processing apparatus.

Sankaran in view of Campbell, Jr. (5,024,128), hereinafter Campbell, teaches that the roll is a pair of nip roll and the sheet of material passes between the nip rolls.

However, Sankaran in view of Campbell does not teach that the sheet is in contact with the nip rolls and the sheet moves at a first speed and is broken by a stress applied to the sheet by the rotation of the nip rolls at a second speed greater than the first speed, as set forth in claim 14. Sankaran in view of Campbell also does not teach that the sheet is in contact with the nip rolls and wherein the sheet moves at a first speed and is broken by a stress applied to the sheet by the combination of the movement of the transfer blade from the retracted position to the extended position and the rotation of the nip rolls at a second speed greater than the first speed, as set forth in claim 35.

Lotto et al. (5,588,644), hereinafter Lotto, may teach the limitations set forth above. However, it would have not been obvious to a person of ordinary skill in the art to combine Lotto with the Sankaran' apparatus, as modified by Campbell, for the reasons set forth in lines 5-24, page 13; and lines 1-2, page 14 of the Decision On Appeal.

None of these references by themselves or in combination with the other prior art cited teach the claimed invention set forth in claims 14 and 35.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501.

The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 19, 2008

/Ghassem Alie/
Primary Examiner, Art Unit 3724